

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

SHIRLEY PICO FAMILY TRUST,)	CIVIL NO. 11-00091 SOM/BMK
Dated August 31, 2004,)	
)	ORDER DISMISSING ACTION
Plaintiff,)	
)	
vs.)	
)	
IXIS REAL ESTATE CAPITAL,)	
INC.,)	
BANK OF AMERICA,)	
COUNTRYWIDE,)	
FLAGSTAR BANK FSB.,)	
INFINITY MORTGAGE CO.,)	
MORTGAGE ELECTRONIC)	
REGISTRATION SYSTEMS,)	
DOES 1-100,)	
)	
Defendants.)	

ORDER DISMISSING ACTION

After two unsuccessful attempts, pro se Plaintiff Shirley Pico again challenges the foreclosure of a residence located on Kaaholo Street in Waipahu on the island of Oahu (the "subject property").

On April 27, 2011, this court issued an Order to Show Cause Why Complaint Should Not Be Dismissed for Lack of Standing. The court gave Pico a deadline to file a written opposition to the order to show cause by May 10, 2011. Ten days have expired since the deadline and still no written opposition to the order to show cause has been filed. As Pico has failed to file a timely response to the Order, her Complaint will be dismissed and the case will be closed.

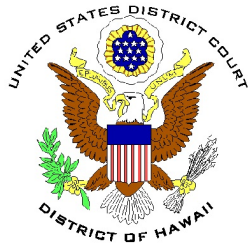
The court is aware that on May 3, 2011, Pico filed a document with the title "Plaintiff's Responsive to Defendant's Infinity Mortgage Co., Bank of America, N.A., and Countrywide Bank, F.S.B., MERGS, Mortgage Electronic Registration Systems, Inc., Motion to Dismiss." See ECF No. 26. This opposition asserted new counts of fraud and punitive damage, and attached an unsworn Declaration by Shirley Pico.

Even if the court construes this document as Pico's opposition to the Order to Show Cause, Pico fails to demonstrate standing. Pico's Declaration is not sworn under penalty of perjury, as required under 28 U.S.C. § 1746. Moreover, the mortgage document shows and Pico's Declaration admits that Manuel T. Tabaquin was the mortgage borrower for the subject property. See ECF No. 16, Ex. 6 (mortgage document); ECF No. 26, Ex. A ("I understand that Manuel Tabaquin made a loan on this property"). In a letter to the court and at an oral hearing, Tabaquin confirmed that he had not given Pico permission to file suit. See Civ. No. 11-00024, ECF Nos. 7 & 20. Pico's unsworn Declaration that Tabaquin "grants me a power to convey the property" cannot prove otherwise. See ECF No. 26, Ex. A.

Because Pico lacks standing to bring this action, the court DISMISSES this action. The Clerk of Court is directed to close this action.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, May 20, 2011.



/s/ Susan Oki Mollway
Susan Oki Mollway
Chief United States District Judge

Shirley Pico Family Trust v. Ixis Real Estate Capital, Inc., et al., Civ. No.
11-00091 SOM/BMK; ORDER DISMISSING ACTION.